

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.)
)
 EDUARDO RODRIGUEZ)

Criminal No. 04-10374-DPW

**DEFENDANT'S ASSENTED-TO MOTION
TO CONTINUE TRIAL**

Defendant Eduardo Rodriguez hereby moves, with the assent of the government, to continue trial currently scheduled for September 5, 2006 to a date no sooner than September 25, 2006. As grounds for this motion, Mr. Rodriguez states that efforts are well underway to challenge in the courts of the Commonwealth one of Mr. Rodriguez' prior convictions and that if the challenge is successful, he would not be eligible for an Armed Career Criminal mandatory fifteen-year sentence in this case. Once Mr. Rodriguez is not eligible for that sentence, this case likely will be resolved by plea rather than trial.

Undersigned counsel is not handling the efforts to vacate one of Mr. Rodriguez' prior convictions in the courts of the Commonwealth. Undersigned counsel is informed that a tape recording of the plea colloquy has been obtained and that pleadings will soon be filed. In counsel's experience, once pleadings are filed, it is possible to get a relatively prompt hearing and decision on the motion to vacate. Undersigned counsel is doing everything possible to move the challenge along.

As additional grounds for this motion, undersigned counsel states that he has the opportunity to be retained in a criminal case that also is going to trial on September 5, 2006. That case is a two-defendant case in which the other defendant is represented by

one of the true giants of the criminal defense bar, with whom undersigned counsel previously has not had the opportunity to work. This presents an invaluable professional development opportunity that counsel very much would like to experience.

The government, through Assistant United States Attorney Robert Richardson, assents to this motion.

The requested continuance is in the interests of justice. No parties would be prejudiced should the court grant the continuance. Most importantly, if the state court challenge to the prior conviction is successful and this case results in a plea, judicial resources that would have been consumed by the presently-scheduled trial could be devoted to other matters.

For all of the foregoing reasons, the court should grant the continuance the parties seek.

EDUARDO RODRIGUEZ

By his attorney,

/s/ E. Peter Parker

E. Peter Parker

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Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on July 21, 2006.

/s/ E. Peter Parker

E. Peter Parker